

A Meeting of the Nibley City Council held at Nibley City Hall, 455 West 3200 South, Nibley, Utah, on Thursday, October 15, 2015.

The following actions were made during the meeting:

**Councilman Jacobsen made a motion to authorize Mayor Shaun Dustin to sign, on Nibley City's behalf, a mitigation agreement Pertaining to Application to Appropriate No. 25-111236 (A78054a) Filed by Nibley City and Cache County and to approve an agreement Requiring Execution of a Mitigation Agreement by and among Nibley City, Cache County and College Irrigation Company, as presented. Councilwoman Beus seconded the motion. The motion passed 4-0; with Councilman Jacobsen, Councilwoman Beus, Councilman Hansen, and Councilman Bernhardt all in favor.**

**Councilman Hansen made a motion to approve Nibley City's franchise agreement with Comcast. Councilman Jacobsen seconded the motion. The motion passed unanimously 4-0; with Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Bernhardt all in favor.**

**Councilman Bernhardt made a motion to approve the contract for a 16-inch well casing with Boart Longyear. Councilman Jacobsen seconded the motion. The motion passed unanimously 4-0; with Councilman Bernhardt, Councilman Jacobsen, Councilman Hansen, and Councilwoman Beus all in favor.**

**Councilwoman Beus made a motion to approve Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region. Councilman Bernhardt seconded the motion. The motion passed unanimously 4-0; with Councilwoman Beus, Councilman Bernhardt, Councilman Hansen, and Councilman Jacobsen all in favor.**

**Councilman Hansen made a motion to approve Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court. Councilwoman Beus seconded the motion. The motion passed unanimously 4-0; with Councilman Hansen, Councilwoman Beus, Councilman Jacobsen, and Councilman Bernhardt all in favor.**

**Councilwoman Beus made a motion to approve Resolution 15-10: A Resolution of the Nibley City Council Appointing Poll Workers for the 2015 General Election and waive the second reading. Councilman Hansen seconded the motion. The motion passed unanimously 4-0; with Councilwoman Beus, Councilman Hansen, Councilman Jacobsen, and Councilman Bernhardt all in favor.**

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OFFICIAL MINUTES OF THE MEETING  
Minutes were taken by Deputy City Recorder Cheryl Bodily

Councilman Bernhardt led the City Council and public in the Pledge of Allegiance.

**Call to Order**

Mayor Shaun Dustin called the Thursday, October 15, 2015, Nibley City Council meeting to order at 6:30 p.m. Those in attendance included Mayor Shaun Dustin, Councilman Bryan Hansen, Councilman Larry Jacobsen, Councilwoman Kathryn Beus, and Councilman Thomas Bernhardt. Mr. David Zook, the City Manager and Justin Maughn, the Nibley City Recreation Director, were also in attendance. Councilman Ron Hellstern was excused from the meeting.

**Approval of agenda; and approval of the September 24, 2015 meeting minutes**

Councilman Jacobsen made a motion to approve the 9-24-15 meeting minutes and the evening's agenda. Councilman Bernhardt seconded the motion. The motion passed unanimously.

**Presentation by Utah State University Regarding Results of the 2014 Household Water Use Study**

Mayor Dustin presented Dr. Doug Smith with Utah State University. He presented USU's findings on Utah's Water Future Results of 2014 iUTAH Household Survey. He provided a printed PowerPoint presentation to the members of staff and the City Council. Mr. Smith said that in July 2014, researchers from Utah State University and the University of Utah conducted a survey about water issues of residents in one neighborhood in Nibley City; the area north of 3200 South. Mr. Smith said they received responses from 69% of the Nibley households selected to participate; 116 total respondents and that characteristics of survey respondents were quite similar to the city as a whole based on census information. Mr. Smith discussed Nibley specific policy options.

Mayor Dustin asked what message Nibley should take from this discussion. Mr. Smith said he would take home that many of our community are not yet water short and that they are to the point that they needed to emphasize conservation and education about water and where it would be useful. Councilman Jacobsen emphasized that this survey was done in July of 2014 and before Nibley City's water contamination emergency. Councilman Jacobsen noted that most of the survey respondents didn't have access to secondary water but said he felt that secondary water didn't necessarily equate to water conservation. Mr. Smith discussed secondary water and encouraged city's to have conversations with irrigation companies about co-managing systems and using appropriate secondary water rights.

Councilman Jacobsen asked for permission to post the [www.iutahepscor.org/hhsurvey](http://www.iutahepscor.org/hhsurvey) address to Nibley City's website. Mr. Smith gave the city permission to post the web address. Councilman Bernhardt asked about the

survey results and decreased water usage inside versus outside. He and Mr. Smith discussed the perceived reasons for the results. During this discussion the City Council discussed the city water rates and the survey respondents feeling they paid too much for water. Mr. Zook said that Utah residents paid quite a bit less than surrounding states and believed there needed to be education on how low Nibley's water rates were. Councilman Jacobsen agreed that the perceived high cost of water was a marking issue.

Mayor Dustin asked for general consent to suspend the agenda and move item five up on the Council's agenda. General consent was given.

### **Approval of Agreements Related to Water Rights for New Drinking Water Well**

Lance Anderson with Cache Landmark Engineers was present at the meeting.

Mr. Zook said this item was to approve two agreements that related to Nibley's water rights for the well they were preparing to drill. Mr. Zook summarized that after the decision was made to drill a new well, Nibley began the process to certify water right they had to get authorization from the State Engineer's Office. Mr. Zook said Nibley had filed an application with the State Engineer to begin drilling and had then received protests from Pacificorps and the Bear River Water Users Association. Mr. Zook said they had worked out an agreement with the protesting parties and said the first agreement stated that Nibley City would enter into an agreement with the College Irrigation Company about how water shares were to be used and then the protestants would then withdraw their protest against Nibley's water rights. The second agreement was the mitigation plan that laid out a number of points related water use. Mr. Zook said this process was being protested because Nibley City was taking water shares that were previously used by College Irrigation Company to water fields. These fields were no longer being farmed and the City had required that water rights were given to the city when new land is developed. He said the protestors wanted to ensure that the water would no longer be used for irrigation purposes once it started getting pumped out of Nibley's new well. Mr. Zook said the agreement said Nibley would do a number of things *if* the State Engineer ordered those things.

Mr. Zook introduced the attorney he had retained to handle this matter, Wendy Crowther. Mr. Zook said Ms. Crowther agreed that the agreement didn't hold Nibley to anything unless the State Engineer implemented them. Mr. Zook said the protestant's wanted Nibley to measure the water that was being taken out of the river by the irrigation company and then being put back in the river on the other end. Mr. Zook said the mitigation agreement was between Nibley City and the College Irrigation Company and the protestant's had agreed that they would withdraw their protest. Mr. Zook summarized the suggested mitigations in the agreement; Nibley City would install, operate, and maintain regular measuring devices and provide a report of the water measurements; if required by the State Engineer. Mr. Zook said Lance Anderson, Wendy Crowther, and Bob Fatheringham, the Cache County Water Engineer, had helped draft the agreement.

Ms. Crowther said this appropriation originated from Cache County from a 2008 application for 12,000 acre-feet of water from the ground water. The city obtained a portion of it, a segregated portion of an application to appropriate, for 1200 acre-feet. The requirement under the ground water management plan was that they mitigate if they were going into the ground water. The mitigation was coming in to make the ground water system whole.

Councilman Jacobsen said he read the agreement and “shouted for joy and ran around the room”. He interpreted from the agreement that the Blacksmith Fork River would no longer be de-watered. Mr. Zook and Ms. Crowther both agreed that this may not necessarily be the case and Mr. Zook described that there should be the same amount of water coming out but more water coming out on the other side going into the Cutler Reservoir.

Councilman Jacobsen asked if this agreement had any effect on any other agreements Nibley had with any other irrigation companies. Mr. Zook said it didn’t.

Councilman Bernhardt asked for some estimates of the cost to measure and monitor to water coming in and out. Mr. Anderson estimated a one-time cost between \$10,000-20,000. Mr. Zook said he liked that they would have the data of how much water was in the river and how much was being diverted out.

Councilman Jacobsen made a motion to authorize Mayor Shaun Dustin to sign, on Nibley City’s behalf, a mitigation agreement Pertaining to Application to Appropriate No. 25-111236 (A78054a) Filed by Nibley City and Cache County and to approve an agreement Requiring Execution of a Mitigation Agreement by and among Nibley City, Cache County and College Irrigation Company, as presented. Councilwoman Beus seconded the motion. The motion passed 4-0; with Councilman Jacobsen, Councilwoman Beus, Councilman Hansen, and Councilman Bernhardt all in favor.

### **Approval of a Franchise Agreement with Comcast**

Mr. Kirk Nord was present at the meeting representing Comcast.

Mr. Zook said State and Federal law authorized cities to charge private utility companies a fee to use public property or rights-of-way. Mr. Zook said federal law governed video services so this agreement specifically pertained to video service. He said they had an agreement with this company since 1980 but it had expired this summer. Mr. Zook said Nibley’s attorney who had suggested some changes that had been implemented had reviewed the agreement. Mr. Zook summarized and discussed the key provisions of the franchise agreement with Comcast. Mr. Zook said Nibley staff recommended the City Council approve the agreement. Mr. Zook said the current year budget projected that cable franchise fee revenue would be \$18,500.

Councilman Hansen made a motion to approve Nibley City's franchise agreement with Comcast. Councilman Jacobsen seconded the motion. The motion passed unanimously 4-0; with Councilman Hansen, Councilman Jacobsen, Councilwoman Beus, and Councilman Bernhardt all in favor.

Mr. Nord left at after this discussion at 7:31.

### **Council Reports Regarding the 2015 Utah League of Cities and Towns Annual Conference**

Mayor Dustin told the City Council that they would be holding a strategic planning session with the consultants for the general plan. He anticipated having this discussion at the next meeting with the consultants.

Councilman Hansen reported on a workshop he attended entitled "Building Healthy Towns". It was suggested that smaller businesses combined could create more tax growth than a single business. He took away that they needed to think smaller, curvilinear, and well designed spaces; smaller projects that could have a big impact on the community. Councilman Hansen had the thought of creating "Nibley Ever Green" and said Nibley was about preserving open space, agricultural land, and open space and living and growing well. Councilman Hansen discussed another topic presented at the discussion, "Building Healthy Places" and shared ideas he took from that discussion including "village communities" and "anchors" in the city. Councilman Hansen discussed his perception of Nibley's "City Center" and used Gardner Village as an example. He suggested the City Council look at this concept in their planning.

Councilman Jacobsen said he felt he agreed with Councilman Hansen in that incremental development was the key. Councilman Jacobsen said he also attended "Strong Cities" and discussed that a city couldn't finance with growth. Councilman Jacobsen discussed making data driven decisions in both social sciences and physical sciences. Councilman Jacobsen discussed a session that involved the landscape architect from Daybreak. He discussed that landscaping and architecture mitigated the impact of Daybreak's high density. He said Nibley didn't govern these things and was not sure he wanted to.

Councilwoman Beus discussed a tour of four different parks. She summarized her observations of each of these locations.

Councilwoman Beus reported on her attendance at a session that gave instruction on CPR. She said there was an opportunity to sponsor a clinic to help teach and certify residents in CPR.

Mayor Dustin discussed that he had spent most of his time meeting in the halls and discussing sewers and water systems. He met with the company that was doing Nibley's wastewater assessment plan and the general plan update. Mayor Dustin

encouraged the City Council to spend one-on-one time with the contractor's on the general plan update.

Mayor Dustin reported that he had been elected as head of the COG and had spent time at the league conferences talking to other mayors. He discussed the realignment of 3100 and 3200 South.

Mr. Zook said he had discussion with a wellness broker about the city's healthcare options. Mr. Zook reported on a workshops dealing with earthquake preparedness, GRAMA (Government Records Access Management Act) recertification, and broadband access.

#### **Approval of a Contract to Construct a New Drinking Water Well on 640 West**

Mr. Zook said the City Council had approved \$1.4 million in the current year budget to move forward with a new drinking water well on 640 West. Mr. Zook said he had interpreted from Nibley City policy that when money was budgeted and approved during the year budgetary process that this acted as the City Council's approval. He asked if the City Council's interpretation was the same or if they needed to bring back any expenditure over \$25,000.

Justin Maughn reported on the competitive bids and design of the proposed well. He said Lance Anderson with Cache Landmark had designed the well. Mr. Maughn discussed the option of digging a bigger hole and using a bigger casing but said they had ultimately decided to go with the smaller casing. He said this would provide ample water for what was needed at the time. Mr. Maughn said two companies had submitted bids and that city staff would like to move forward with the contract with Boart Longyear who submitted the lowest bid on a 16-inch well. He said he would like the City Council's approval moving forward. Councilwoman Beus asked for the thought process of asking for a bigger casing and well. Mr. Maughn reported on the pros and cons of updating the proposed well. Mr. Maughn and the City Council discussed water needs and how long it would take for a 16-inch well to reach capacity.

Councilman Jacobsen asked if all bidders had been submitted the exact same options with the exact same parameters. Mr. Maughn said they were confident with the bids they had received. Mr. Maughn agreed that all companies had equal opportunity to bid on all parts of the project, including options.

Councilman Bernhardt made a motion to approve the contract for a 16-inch well casing with Boart Longyear. Councilman Jacobsen seconded the motion. The motion passed unanimously 4-0; with Councilman Bernhardt, Councilman Jacobsen, Councilman Hansen, and Councilwoman Beus all in favor.

The City Council and Mayor Dustin discussed whether staff would bring all the bid items for the well to the City Council for approval which would equate to multiple contracts awarding over \$1,000,000. Mr. Zook read from Nibley City's purchasing

policy. He asked if their interpretation of the policy was that they had approved the purchasing power ??? with approval of the budget. Mayor Dustin discussed his plan for presenting these types of large, multifaceted budget items in the future. Councilman Jacobsen said the City Council had the responsibility to award the bid. Mayor Dustin felt the purchasing policy awarded the responsibility to approve the contracts to staff. Mr. Zook said that in the government industry \$25,000 was a low number necessitating that city staff go to the City Council for contract approval; he said it was typically around \$100,000 before it needed to come before the governing body. Mayor Dustin suggested they continue to award the individual contracts at City Council until such time as they could change the Nibley City purchasing policy. Mr. Maughn said this complicated the process and that this introduced a lot of variables. Mr. Anderson, the City Council, and Mayor Dustin discussed the well construction timeline.

Mayor Dustin proposed the following actions going forward; 1. The City Council will continue to have approval authority on accepting contract; 2. Nibley City will revise the purchasing policy that raised the spending limit for City Council consideration; 3. When the budget was presented next year, large public works projected would be budgeted into chunks that would be anticipated in each contract.

**Discussion and Consideration of Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region (Second Reading)**

Mayor Dustin read Resolution 15-08 to the City Council and public present.

Lance Anderson left at 8:44 p.m.

Councilwoman Beus made a motion to approve Resolution 15-08: A Resolution of the Nibley City Council Adopting the 2015 Pre-Disaster Mitigation Plan: Bear River Region. Councilman Bernhardt seconded the motion. The motion passed unanimously 4-0; with Councilwoman Beus, Councilman Bernhardt, Councilman Hansen, and Councilman Jacobsen all in favor.

**Discussion and Consideration of Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court (Second Reading)**

Mayor Dustin read Resolution 15-09 to the City Council and public present.

Councilman Hansen made a motion to approve Resolution 15-09: A Resolution of the Nibley City Council Requesting the Recertification of the Nibley City Justice Court. Councilwoman Beus seconded the motion.

Councilman Hansen asked if any additional cost had been determined for security requirements. Mr. Zook said there was no additional security measures being required or implemented at the present time. He said Nibley City might voluntarily implement additional security measure in order to keep people safe.

The motion passed unanimously 4-0; with Councilman Hansen, Councilwoman Beus, Councilman Jacobsen, and Councilman Bernhardt all in favor.

**Discussion and Consideration of Resolution 15-10: A Resolution of the Nibley City Council Appointing Poll Workers for the 2015 General Election (First Reading)**

Mayor Dustin said the City Council would need to approve this resolution on first reading unless they chose to schedule another meeting between now and Election day on Tuesday, November 3.

Mayor Dustin read Resolution 15-10 to the City Council and public present.

Councilwoman Beus made a motion to approve Resolution 15-10: A Resolution of the Nibley City Council Appointing Poll Workers for the 2015 General Election and waive the second reading. Councilman Hansen seconded the motion.

Councilman Hansen asked who would be manning the City offices. Mr. Zook said they would only have three people working at the polls at a time. Councilman Bernhardt asked how the poll workers were being compensated particularly those who were already members of Nibley City staff. Mr. Zook described how compensation worked and said they would not be double paid.

The motion passed unanimously 4-0; with Councilwoman Beus, Councilman Hansen, Councilman Jacobsen, and Councilman Bernhardt all in favor.

**Council and Staff Reports**

Councilman Hansen reported on the Wildlife Certification of Nibley City. He and Councilman Jacobsen and Mayor Dustin discussed having Councilman Hellstern plan a celebration. Mayor Dustin noted that Nibley's new Recreation Director would be on hand to assist with any plans.

Councilman Bernhardt asked about an update of the crosswalk at 3200. Mr. Maughn reported that the document were close to completion in order to be ready for bid.

Councilman Jacobsen reported on the success of the Seed and Garden Exchange.

Mayor Dustin reminded everyone to vote and said he appreciated everyone who was putting in the time and effort to run for City Council.

Mayor Dustin reported that the "Boo"nanza was Thursday the 29<sup>th</sup> from 6-8 p.m. at Nibley Elementary School.

Mr. Zook reported on Chad Wright; Nibley's new Recreation Director. He described Mr. Wright's qualifications, past work experience, and talents.



Mr. Zook informed the City Council of the addition of two cubicles in the city office. Once of which would be used by the Sheriff's office.

Mr. Zook described that he spoke at the Utah Public Information Officer's Association and discussed Nibley response to the recent water contamination emergency.

Mr. Zook said he and Mr. Maughn had participated in a drill at West Point on emergency situations and particularly water contamination.

Mr. Zook talked about land that was for sale around the current City Hall.

Mr. Zook said it was anticipated that he first portion of the City Council meeting on November 5 would be a strategic planning session.

Mr. Zook discussed that the Stokes Nature Center had contacted him and expressed their intent to have a future nature interpretive center at their location in and adjacent to Nibley. He had received a request from them to waive their impact fees to connect to water and sewer lines. Because of the construction that would soon happen at that intersection, the Stokes Nature Center had received an offer for a discount to have those line connected. Mr. Zook said he would like to discuss a MOU (Memorandum of Understanding) where Nibley was potentially providing value to them that they would provide value to them. Mr. Zook told the City Council that this would be on their next meeting agenda.

Mr. Zook discussed the city employees healthcare plan renewal and said they would see a 15.5% increase in premium costs in the next year.

Mr. Zook reported on a social security administration meeting for Nibley's employees that would allow them to opt in or opt out of the social security plan. He said the employees would vote on their option at a referendum election on Friday, October 23. Mr. Zook asked about an alternate possibility of setting aside the 6% social security deduction into a 401(k). The City Council asked about additional administrative cost. Mr. Zook said it was essentially a payroll deduction and would be handled the same way a social security deduction was. None of the City Council indicated that they were opposed to offering that option.

Mayor Dustin adjourned the meeting at 9:23 p.m.

Attest: \_\_\_\_\_  
Deputy City Recorder